

REMARKS

Claims 1 and 3-50 are currently pending in the subject application and are presently under consideration. Claims 1, 10, 17, 30 and 36 have been amended herein. A listing of all claims can be found at pages 2-11 of this Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 10-29 and 36-50 Under 35 U.S.C. §101

Claims 10-29 and 36-50 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. This rejection should be withdrawn for at least the following reasons. . The subject claims are directed to statutory subject matter.

Because the claimed process applies the Boolean principle to produce a useful, concrete, tangible result ... on its face the claimed process comfortably falls within the scope of §101. *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1358. (Fed.Cir. 1999); *See State Street Bank & Trust Co. v. Signature Fin. Group, Inc.*, 149 F.3d 1368, 1373, 47 USPQ2d 1596, 1601 (Fed.Cir.1998) (finding a system implementing a financial management structure satisfied §101 because it constituted a practical application of a mathematical algorithm by producing a useful, concrete and tangible result).

The claimed subject matter relates to a short text message dynamic service application for mobile communication devices. Independent claims 10, 17 and 36, have been amended herein to recite data structures and software as embodied in a computer-readable medium. Specifically, independent claim 10 has been amended to recite “[a] computer readable medium of a digital cellular telephone, the computer readable medium includes an active messaging client software for active messages transmitted via a short text messaging service”. Independent claim 17 has been amended to recite “[a] computer readable medium of a digital cellular telephone, the computer readable medium includes an active message script data structure for active messages transmitted from an active

messaging gateway to install applications onto the telephone via a short text messaging service, comprising”. Independent claim 36 has been amended to recite “[a] computer readable medium of a mobile telephone short text messaging system, the computer readable medium includes an active message gateway software for short text messages that include an active message script”.

The active messaging client software, active messaging gateway software and data structures recited in claims 10, 17 and 36 are structurally and functionally interrelated to the computer-readable medium and thus statutory subject matter. Therefore, this rejection should be withdrawn.

II. Rejection of Claims 10-14, 16-17, 22, 24-26 and 28-29 Under 35 U.S.C.

§102(e)

Claims 10-14, 16-17, 22, 24-26 and 28-29 stand rejected under 35 U.S.C. §102(e) as being anticipated by Alanara *et al.* (U.S. 6,292,668). This rejection should be withdrawn for at least the following reasons. Alanara *et al.* does not disclose or suggest each and every aspect set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it ***expressly or inherently describes each and every limitation set forth in the patent claim.*** *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaa Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The ***identical invention must be shown in as complete detail as is contained in the ... claim.*** *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Applicants’ claimed subject matter relates to a short text message dynamic service application for mobile communication devices. In particular, independent claims 10 and 17, as amended, recite similar aspects, namely an ***active message script transmitted from an active message gateway*** to a mobile phone where it is installed. Alanara *et al.* does not disclose or suggest these novel aspects.

Alanara *et al.* relates to a system in a communication network comprising transmitting and receiving terminals that support a plurality of applications and having

means of communicating user messages. In particular, the receiving terminal receives user messages having data and a header relating to an application and accordingly interprets the received messages whereas the transmitting terminal sends data relating to an application in a user message and adds a header to indicate the respective application to which the data relates. Alanara *et al.* recites specifically, a system to transmit and receive data related to an application, however, Alanara *et al.* is silent with regard to an active message gateway that can transmit an active message script to a mobile communication device.

Applicants' claimed subject matter, in contrast, discloses a system wherein an active message script is transmitted from an active message gateway to a mobile cellular phone, wherein a selected application associated with the active message script can be installed on the mobile phone. As an example, a user can select an application to download from the active message gateway, by transmitting an "Install" command via an active message. In response to this, the active message gateway returns a list of available applications that the user can download. The application or service selected by the user is then transmitted to the mobile telephone as one or more active messages and installed. From this point, the application can be executed by the user within the mobile phone. (See page 8, paragraph [0027]). Furthermore, active message application servers enable creation of active messages or applications that can be distributed by wireless transmission. Active messaging enables programming of mobile telephones and installation of distributed applications or parts of them on mobile telephones. (See page 8-9, paragraph [0029]). Alanara *et al.* merely relates to a system that can transmit messages that contain data associated with a particular application and does not teach or suggest a method to install an available application or part of it on a mobile telephone *via* one or more active message scripts.

In view of at least the foregoing, it is readily apparent that Alanara *et al.* does not anticipate or suggest the subject invention as recited in claims 10 and 17 (and claims 11-14, 16, 22, 24-26 and 28-29 that depend there from). Accordingly, it is respectfully requested that this rejection be withdrawn.

III. Rejection of Claims 1, 3-9, 30-33, 35-39, 41-46 and 49-50 Under 35 U.S.C. §103(a)

Claims 1, 3-9, 30-33, 35-39, 41-46 and 49-50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Alanara *et al.* (U.S. 6,292,668) in view of Zhang *et al.* (U.S. 7,082,312). This rejection should be withdrawn for at least the following reasons. Alanara, *et al.* either alone or in combination with Zhang *et al.*, does not teach or suggest every feature of the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (emphasis added).

Applicants' claimed subject matter relates to a system that transmits active messages between a mobile telephone and an active message gateway. Independent claims 1, 30, 36, as amended, recite similar aspects, in particular, ***an active message gateway that creates active message scripts that install applications on the mobile telephone.*** Alanara, *et al.* either alone or in combination with Zhang *et al.*, fails to teach or suggest this novel feature.

As discussed above, Alanara *et al.* is silent with regard to installation of applications on a mobile communications device *via* active messaging from an active message gateway. Zhang *et al.* relates to a system and method for providing information service for mobile telephones employing short message service. More specifically, the system comprises of a short message service gateway that receives a request for information service, from a mobile telephone, and responds by sending back results obtained from at least one application server to the mobile telephone in form of a short

message. However, Zhang *et al.* fails to disclose a system that can transmit active messages comprising active scripts that can be employed to install applications onto the mobile communications device. Thus Zhang *et al.* does not remedy the aforementioned deficiencies presented by Alanara *et al.* with respect to the independent claims.

Alanara *et al.* alone or in combination with Zhang *et al.* fail to teach or suggest all features of applicants' invention as recited in independent claims 1, 30 and 36 (and claims 3-9, 31-33, 35, 37-39, 41-46 and 49-50 that depend there from), and thus fails to make obvious the subject claims. Therefore, it is respectfully requested that this rejection be withdrawn and the subject claims allowed.

IV. Rejection of Claims 15 and 27 Under 35 U.S.C. §103(a)

Claims 15 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Alanara *et al.* (U.S. 6,292,668) in view of Comer (U.S. 5,610,973). This rejection should be withdrawn for at least the following reasons. Alanara *et al.* alone or in combination with Comer fail to teach or suggest each and every aspect of the claimed subject matter.

Claims 15 and 27 depend from independent claims 10 and 17 respectively. As discussed above, Alanara *et al.* fails to teach or suggest all limitations of independent claims 10 and 17. Specifically, Alanara *et al.* is silent with regard to an active message gateway that can transmit an active message script to a mobile communication device. Comer merely relates to a system and method for automatically detecting the presence of predetermined classes of mobile radiotelephones within a cellular network and interactively communicating with a registering mobile radiotelephone within such classes. Comer does not anticipate a system that can install applications onto a mobile telephone by employing active messaging and thus fails to rectify the aforementioned deficiencies of Alanara *et al.* with respect to independent claims 10 and 17. Accordingly, withdrawal of this rejection is respectfully requested.

V. Rejection of Claims 18-21 and 23 Under 35 U.S.C. §103(a)

Claims 18-21 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Alanara *et al.* (U.S. 6,292,668) in view of Chen *et al.* (U.S.

Application 2003/0054810). This rejection should be withdrawn for at least the following reasons. Neither Alanara *et al.* nor Chen *et al.* teach or suggest all limitations recited in the subject claims.

Claims 18-21 and 23 depend on independent claim 17. As discussed above, Alanara *et al.* does not teach or suggest all limitations of claim 17 and Chen *et al.* is silent with regard to the aforementioned deficiencies presented by Alanara *et al.* with respect to independent claim 17. Chen *et al.* merely recites a system that includes a mobile device server, which provides a message gateway to allow mobile devices that use different protocols to relay messages to each other and fails to make up for the deficiencies presented by Alanara *et al.* with respect to independent claim 17 discussed *supra*.

Based on at least the foregoing, it is respectfully requested that this rejection be withdrawn.

VI. Rejection of Claims 34, 40 and 47 Under 35 U.S.C. §103(a)

Claims 34, 40 and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Alanara *et al.* (U.S. 6,292,668) in view of Zhang *et al.* (U.S. 7,082,312) as applied to claims 30 and 36 above, and further in view of Chen *et al.* (US Application 2003/0054810). This rejection should be withdrawn for at least the following reasons. None of the cited references teach or suggest all limitations of the subject claims.

Claims 34, 40 and 47 depend from independent claims 30 and 36 respectively. Alanara *et al.* and Zhang *et al.* either alone or in combination, fail to disclose each and every feature of independent claim 30 and 36, as discussed above, and Chen *et al.* does not compensate for such deficiencies when combined with either of both Alanara *et al.* and Zhang *et al.* Accordingly, this rejection should be withdrawn.

III. Rejection of Claim 48 Under 35 U.S.C. §103(a)

Claim 48 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Alanara *et al.* (U.S. 6,292,668) in view of Zhang *et al.* (U.S. 7,082,312) as applied to 36 above). This rejection should be withdrawn for at least of the following reasons. The

cited references do not teach or suggest all claim limitations.

As discussed *supra*, Alanara *et al.* and Zhang *et al.* do not disclose each and every aspect set forth in independent claim 36, from which claim 48 depends. Therefore, this rejection should be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP682US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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